

## **DECISION MEMO**

### **Wheeler Creek Habitat Improvement Project**

**USDA Forest Service  
Humboldt-Toiyabe National Forest, Bridgeport Ranger District  
Mono County, California**

#### **I. PROJECT BACKGROUND AND PURPOSE AND NEED FOR ACTION**

##### **A. PROJECT LOCATION**

The Wheeler Creek Habitat Improvement Project is located 12 miles northwest of Bridgeport, CA in Mono County. The project would improve approximately 1.5 miles of stream and adjacent areas of meadow habitat along Wheeler Creek (See Project Location Map). The project area includes National Forest System and California Department of Fish and Wildlife managed lands and occurs within priority Bi-State sage-grouse habitat in the Desert Creek-Fales Population Management Unit (PMU). Legal description for the project area includes Township 6 N; Range 23 E; Sections 22, 23, 26, 27, and 35.

##### **B. BACKGROUND/PURPOSE AND NEED FOR ACTION**

The meadow system adjacent to Wheeler Creek provides essential brood-rearing habitat for Bi-State sage-grouse and is important migration and summer range for the West Walker mule deer herd. Currently, Wheeler Creek and the adjacent meadows are not in proper functioning condition. Wheeler Creek is incised in several areas, and has eroding stream-banks and headcuts. Continued channel incision is causing the water table to drop leading to drying of the meadow and a transition from riparian vegetation to more upland or dry land (xeric) species such as sagebrush.

The purpose of this project is to improve watershed condition in the Wheeler Creek area, which will improve the quality of priority habitat including essential brood-rearing meadows for Bi-State sage-grouse and other wildlife species. The need for this project is to address lowered water tables and meadow drying that is contributing to declining habitat quality for Bi-State sage-grouse and to address priority conservation actions from the Bi-State Action Plan (2012):

- Action HIR1-3-DCF: Continue to work with the permittees on Wheeler Flat to develop and implement grazing management strategies that reduce the impacts of early season grazing on key brood meadows in the Desert Creek-Fales PMU.
- Action HIR1-4-DCF: Continue to develop and implement an interagency restoration plan for Wheeler Creek to restore hydrologic function and increase forb cover and diversity on adjacent brood meadows in the Desert Creek-Fales PMU.

##### **Ecological Objectives:**

- Return Wheeler Creek to Proper Functioning Condition (PFC).
- Recharge meadow water tables.
- Increase riparian plant species diversity and cover.

- Meet or exceed Bi-State Greater Sage-Grouse Technical Advisory Committee (TAC) defined habitat objectives for brood-rearing/summer habitat.
- Sagebrush canopy cover adjacent to riparian/meadow areas  $\geq 10\%$ .
- Perennial forb canopy cover  $\geq 15\%$  in meadows and  $\geq 5\%$  in adjacent uplands.
- Greater than 5 species of perennial forb present.
- Within site capability, maintain a riparian/meadow perimeter to area ratio of 0.15 or greater.

Management Direction:

This project is consistent with the Toiyabe National Forest Land and Resource Management Plan (1986), as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (2004):

- Manage riparian areas to achieve or maintain high ecological status.
- Give priority to range, wildlife habitat, and watershed improvement projects that will rehabilitate riparian areas that cannot be restored in a timely manner by other management techniques.
- Strive to achieve and maintain at least 90 percent of the natural bank stability for streams supporting Lahontan or Paiute cutthroat trout and 80 percent for all others.
- Capitalize on opportunities to resolve and preserve the natural and beneficial values served by floodplains; and to preserve, enhance, and manage the natural and beneficial values of wetlands.

In addition, the Sierra Nevada Forest Plan Amendment Record of Decision (2004) also identifies riparian conservation areas around lakes and along perennial and intermittent streams, and directs management to maintain or restore the structure and function of aquatic, riparian, and meadow ecosystems.

**C. DECISION**

It is my decision to improve Bi-State sage-grouse habitat through restoration of approximately 1.5 miles of stream and adjacent areas of meadow habitat along Wheeler Creek.

A restoration plan was completed for the Wheeler Creek project in 2013. The restoration plan identified potential treatments including bank sloping, installation of grade control and headcut structures, installation of step-pools, vegetation removal, and re-vegetation with riparian species. The goals of the proposed treatments are to reverse meadow drying and loss of riparian species, reduce soil erosion, stop headcutting from progressing upstream, and improve water quality and temperature throughout the stream reach. Although removal of sagebrush encroaching into meadow areas was identified as a treatment in the original restoration plan, the proposed action for this project specified that no sagebrush treatments would occur. No sagebrush will be targeted for removal within or adjacent to meadow areas to retain cover for sage-grouse. Any vegetation removal will be incidental to other restoration treatments such as bank sloping, installation of grade control and headcut structures, and installation of step-pools. The equipment necessary for implementation of this project may include an excavator, backhoe or similar equipment, dump truck, UTV with trailer, and fuel truck. Fuel trucks will

be staged outside of meadow, drainage, and waterbody areas. Materials used for implementation may include rock, soil, sod, native seed, and jute cloth. Re-vegetation with riparian species may be accomplished through seeding, planting bare root or containerized stock, and placing sod. Only native species will be used.

Some treatments recommended in the original restoration plan may not be implemented. Vegetation treatments including sagebrush removal will not be implemented. Initial treatments will focus on headcut repair with bank sloping and re-vegetation and if initially needed grade control structures and step pools. Grade-control structures and step-pools may also be installed at a later date if the initial treatments are not sufficient to return Wheeler Creek to proper functioning condition.

Enclosure fence is currently present along the portion of Wheeler Creek that is proposed for restoration. A small gap exists between fencing on Forest Service land and the recently built adjacent fence on CDFW land. Approximately 107 feet of new fence will be constructed to eliminate the gap between the two existing enclosure fences. New fence will be constructed using t-posts and barbed wire, and will be marked to increase visibility for sage-grouse and other wildlife species. The intent of the enclosures is to exclude cattle from the meadow areas and stream channel to maintain desirable vegetation conditions during the sage-grouse brood-rearing season (June 1st – September 1st) and to allow recovery of the site after restoration treatments are completed. The Toiyabe National Forest Land and Resource Management Plan (1986), as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (2004) specifies that grazing will not be allowed in restoration areas for a minimum of two years following implementation; however, the intent of the enclosure fencing is to maintain desirable vegetation conditions for sage-grouse indefinitely and cattle exclusion is not limited to a two-year timeframe.

One new trough will be added to the existing East pipeline. Troughs present along the East pipeline provide watering opportunities in an adjacent pasture, but are not accessible from the treatment area. Adding a trough in the treatment area will provide a watering opportunity away from meadow areas and outside of the Wheeler Creek enclosures. Three potential sites were identified for trough placement. Only one site will be selected for trough installation. A concrete pad approximately 4 feet by 8 feet will be installed and the trough placed on top. A backhoe will likely be used to clear ground for the installation. Ground disturbance from the installation will not exceed 400 square feet.

Mechanized equipment will be authorized to travel off established roads to access Wheeler Creek for restoration treatments. Existing roads in the project area provide two access points along the restoration area. Two additional access points using approximately 0.5 miles of off-road travel were also identified. If additional off-road routes are needed they would be surveyed and placed to avoid cultural resources. Potential equipment staging areas were identified in previously disturbed areas. One of these occurs in the parking area at the Wheeler Guard Station. If additional equipment staging areas are needed, previously disturbed areas would be targeted and cultural resource areas would be avoided. Staging areas for fuel trucks will be outside of meadow, drainage, and waterbody areas. Authorized access routes and equipment staging areas will be identified and flagged in the project area prior to project implementation.

Archeological sites will be flagged and avoided during project implementation for the following activities: staging, off-road travel access by any mechanized equipment, bank sloping, grade control structure emplacement, headcut structure emplacement, mechanized re-vegetation methods, trough installation (including the pipe and a buffer area of a radius of 100' from the trough). Archaeological

sites may be completely enclosed within any fenced enclosure as the preferred method of avoidance. Alternative measures may include reduction or expansion of the size of the enclosure or moving the fence to avoid archaeological site types that may be damaged by fence construction and cattle concentrations along the fenceline. Archaeological sites that are NOT eligible to the National Register of Historic Places might not be managed for protection. Testing or data recovery of archaeological resources will only occur if the resources cannot be avoided and are eligible or treated as if eligible to the National Register of Historic Places. At this time, no testing or data recovery is planned.

Project implementation will be timed to avoid potential destruction of migratory bird nests or young birds. If treatments were planned during the peak breeding season (May 15 – July 15), a qualified biologist would survey the area prior to treatment to determine if nests are present. If nests or evidence of nesting are observed, a protective buffer (size based on species requirements) would be delineated to prevent destruction or disturbance to nests until they are no longer active. Project implementation will not occur during the sage-grouse breeding and early/late brood-rearing seasons (March 1 – September 1). Wildlife escape ramps will be installed and maintained in new and existing water troughs. Enclosure fence will be marked to increase visibility for sage-grouse and other wildlife.

Equipment and vehicles used for stream restoration activities will be washed prior to entering the treatment area to remove all mud, dirt, and plant material. Fill material such as rock and gravel used in restoration activities would be inspected before being used at the site to ensure its weed free. All seed used for restoration activities would be certified weed free. The project area will be monitored for a minimum of five years post-implementation to initiate early and rapid response should any new weed infestations occur.

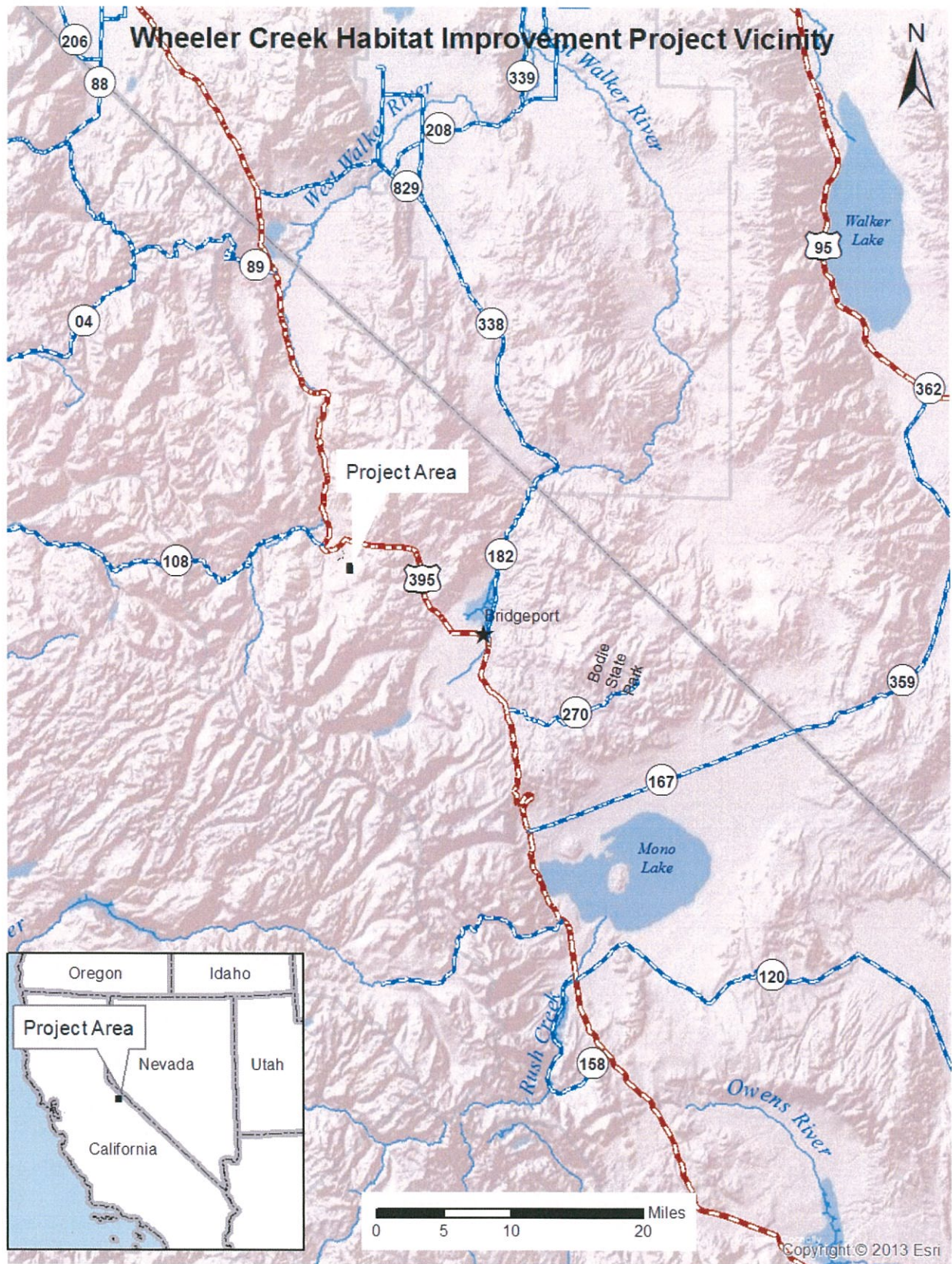
Best Management Practices (BMPs) for water quality management as specified in the National Core BMP Technical Guide (USFS 2012) will be used to minimize potential impacts to Wheeler Creek and surrounding meadows. BMPs include: Soil disturbed from the use of equipment along the stream-bank during stream restoration work will be re-vegetated. Stream will be routed around reaches during construction to minimize impacts to water quality. Cross-country travel routes will be designated. Soil disturbed during equipment access will be restored. Grazing will not be allowed in the restoration areas for a minimum of two years following implementation.

Any and all permits required by the Lahontan Water Quality Board under the Porter-Cologne Water Quality Control Act as amended, and the Clean Water Act as amended, will be obtained prior to project implementation. Any required Army Corps of Engineers permits or waivers of permits will also be obtained prior to project implementation. These may include 404/401WQC and 402 permits.

My decision is based on several factors including the contents of this Decision Memo, site-specific resource information, and supporting documentation. My conclusion is based on a review of the record that shows a review of relevant scientific information, a consideration of responsible opposing views, and the acknowledgement of incomplete or unavailable information, scientific uncertainty, and risk. Relevant scientific information includes recommendations from an archaeologist, a wildlife biologist, a hydrologist, a wilderness manager, and a rangeland management specialist.

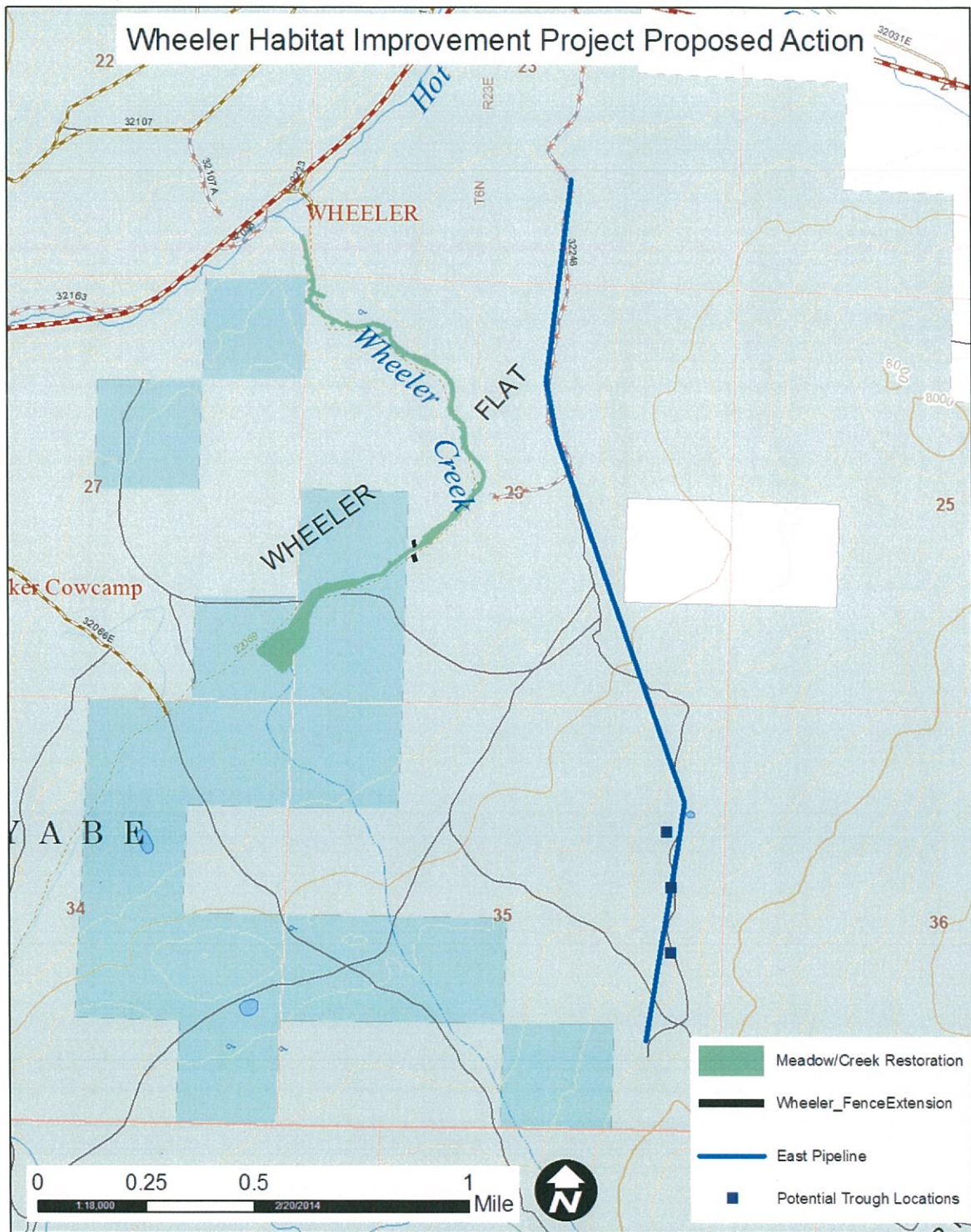


Project Location Map:



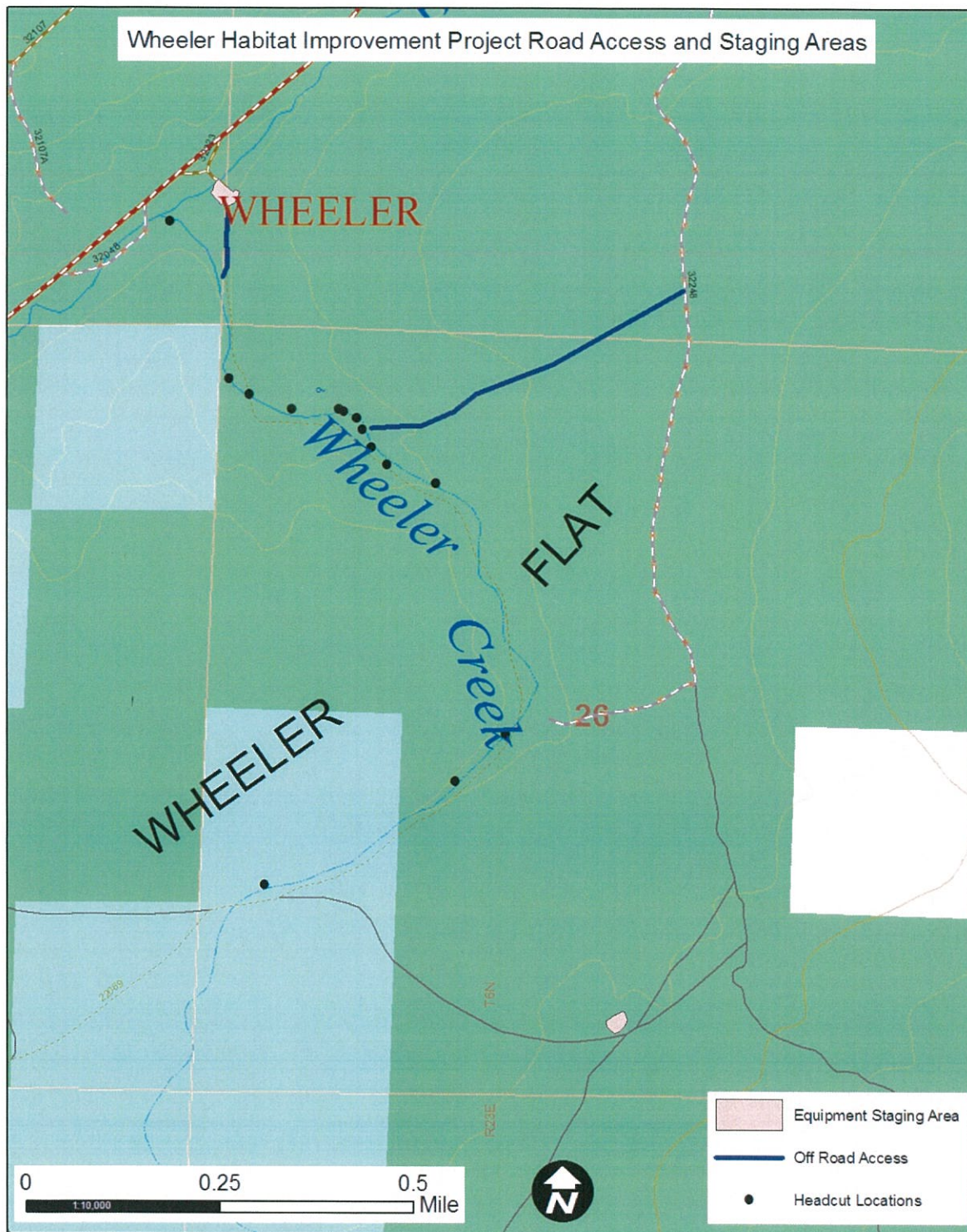


Proposed Action Map:





Road Access and Staging Areas Map:



## **II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION**

Decisions may be categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA) when conditions of one of the categories identified by the U.S. Department of Agriculture are met. These categories can be found in 7CFR part 1b, or as identified in the Forest Service Handbook (FSH) 1909.15, section 32. To be categorically excluded there must not be extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

I have concluded the Wheeler Creek Habitat Improvement Project decision with the design features planned is appropriately categorically excluded from documentation in an EIS or EA as it is a routine activity with a category of exclusion and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative effect on the quality of the human environment.

### **A. CATEGORY OF EXCLUSION**

This decision qualifies for the following exclusion under FSH 1909.15, Chapter 32.2, Category 36 CFR 220.6 (e)(6) – *Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction.*

### **B. FINDING OF NO EXTRAORDINARY CIRCUMSTANCES**

Extraordinary circumstances include, but are not limited to: Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species; Flood plains, wetlands, or municipal watersheds; Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas; Inventoried roadless areas; Research natural areas; American Indians and Alaska Native religious or cultural sites; Archaeological sites, or historic properties or areas. The mere presence of one or more of these resource conditions does not preclude the use of a categorical exclusion. It is the degree of the potential effect of a proposed action on these resource conditions that determines whether extraordinary circumstances exist (FSH 1909.15 Chapter 31.2).

The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects which may significantly affect the environment. I have determined this based on the following analysis:

#### ***A. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species.***

The Endangered Species Act (ESA) requires that federal activities do not jeopardize the continued existence of any species federally listed and candidate, proposed, threatened, or endangered, or result in adverse modification to such species' designated critical habitat. Conferencing with US Fish and Wildlife Service (USFWS) is required only when the proposed action is likely to jeopardize the continued existence of a proposed species or destroy or adversely modify proposed critical habitat. The project area includes priority habitat for the Bi-State sage-grouse which is currently proposed for listing as threatened. The project area also occurs within proposed critical habitat for this species. The Wheeler Creek project is included in the Bi-State Action Plan (2012) project list which identifies actions necessary for the recovery of this species. A determination of may affect but is not likely to adversely affect the species or its designated critical habitat was made for Bi-State sage-grouse. The USFWS was contacted



regarding this project and its determination. USFWS confirmed that conferencing was not needed and that a conference report would not be issued. Potential short-term effects to Bi-State sage-grouse will be minimized by implementing the project outside of the breeding and early/late brood-rearing seasons (March 1 – September 1). The decision is expected to result in long-term benefit to Bi-State sage-grouse by improving the quality of meadow habitat used for brood-rearing and by improving watershed condition.

The project area also contains suitable habitat for Region 4 Forest Service sensitive species including spotted bat, Townsend's western big-eared bat, mountain quail, upswept moonwort, dainty moonwort, slender moonwort, and moosewort. A determination of may impact individuals, but is not likely to result in a trend toward Federal listing or loss of viability for the species in the planning area was made for these species. The decision is expected to be beneficial over the long-term for both plant and wildlife species by improving the quality of meadow habitat and by improving overall watershed condition.

***B. Flood plains, wetlands, or municipal watersheds.***

Floodplains: Executive order 11988 is to avoid adverse impacts associated with occupancy and modification of floodplains. Floodplains are identified by this order as, "...the lowland and relatively flat areas adjoining inland and coastal waters including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent (100-year recurrence) or greater chance of flooding in any one year".

**Present, Beneficial Effect** – Wheeler Creek is a perennial stream with associated floodplains. The decision will result in an overall improvement in stream channel stability and water quality and will not negatively affect or modify floodplains.

Wetlands: Executive order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, "...areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated condition for growth and reproduction." Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

**Present, Beneficial Effect** – Wheeler Creek is a perennial stream with adjacent wet meadows. Short-term impacts from use of equipment during treatments may occur, but will be minimized through the use of Best Management Practices (BMPs) as specified in the National Core BMP Technical Guide (USFS 2012). The decision is expected to improve the condition of wet meadows in the Wheeler Creek sub-watershed over the long term.

Municipal Watersheds: Municipal watersheds are managed under multiple use prescription in land and resource management plans.

**Not Present, No Effect** – The project area does not occur within a municipal watershed and the decision will have no effect on municipal watersheds.

***C. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas.***

Wilderness:

**Not Present, No Effect** – The project area is not within wilderness areas and the decision will have no effect on wilderness areas.

Wilderness Study Areas:

**Not Present, No Effect** - The project area is not within a wilderness study area and the decision will have no effect on wilderness study areas.

National Recreation Areas:

**Not Present, No Effect** – The project area is not within a national recreation area and the decision will have no effect on national recreation areas.

***D. Inventoried Roadless Areas.***

**Not Present, No Effect** – The project area is not within an inventoried roadless area and the decision will have no effect on inventoried roadless areas.

***E. Research Natural Areas.***

**Not Present, No Effect** – The project area is not within a research natural area and the decision will have no effect on research natural areas.

***F. American Indians and Alaska Native religious or cultural sites, archaeological sites, or historic properties or areas.***

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the effect of a project on any district, site, building, structure, or object that is included in, or eligible for inclusion in the National Register. Section 106 of the National Preservation Act also requires federal agencies to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The Archaeological Protection Act covers the discovery and protection of historic properties (prehistoric and historic) that are excavated or discovered on federal lands. It affords lawful protection of archaeological resources and sites that are on public and Indian lands. The Native American Graves Protection and Repatriation Act covers the discovery and protection of Native American human remains and objects that are excavated or discovered on federal lands. It encourages avoidance of archaeological sites that contain burials or portions of sites that contain graves through “in situ” preservation, but may encompass other actions to preserve these remains and items.

This decision complies with the cited Acts. Native American religious or cultural sites, archaeological sites, and historic properties were surveyed and documented by the Bridgeport archaeologist. Archeological sites will be flagged and avoided during project implementation for the following activities: staging, off-road travel access by any mechanized equipment, bank sloping, grade control structure emplacement, headcut structure emplacement, mechanized re-vegetation methods, trough installation (including the pipe and a buffer area of a radius of 100’ from the trough). Archaeological sites may be completely enclosed within any fenced enclosure as the preferred method of avoidance. Alternative measures may include reduction or expansion of the size of the enclosure or moving the fence to avoid archaeological site types that may be damaged by fence construction and cattle concentrations along the fenceline. Archaeological sites that are NOT eligible to the National Register of Historic Places might not be managed for protection. Testing or data recovery of archaeological resources will only occur if the resources cannot be avoided and are eligible or treated as if eligible to the National Register of Historic Places. At this time, no testing or data recovery is planned. A cover letter and cultural resources report was sent to the California State Historical Preservation Office (SHPO) on July 10, 2014. No response from California SHPO has been received.

Additionally, the Federal government has trust responsibilities to Tribes under a government-to-government relationship to insure that the Tribes reserved rights are protected. Consultation with tribes helps insure that these trust responsibilities are met. Potentially affected tribes including the Bridgeport Indian Colony, Yerington Paiute Tribe, Washoe Tribe of Nevada and California, and the Walker River Paiute Tribe were mailed a scoping/request for comments letter on March 25, 2014. The Wheeler Creek project was also presented at tribal meetings. No comments were submitted. The Bridgeport Indian Colony expressed a desire to maintain culturally important plants in the area once restoration work is completed.

### **III. PUBLIC INVOLVEMENT**

The proposal for this project was provided to the public and other agencies for comment during scoping. A scoping/request for comments letter was mailed out to interested persons and organizations on March 25, 2014. The project was also included in the Schedule of Proposed Actions (SOPA) on April 1, 2014. One comment was received in support of the project and the Lahontan Water Quality Board submitted comments detailing the process to obtain required permits. All permits required by the Lahontan Water Quality Board and the Army Corps of Engineers will be obtained before implementation of this project occurs.

### **IV. FINDINGS REQUIRED BY OTHER LAWS**

This decision is consistent with management direction, including standards and guidelines to the Toiyabe National Forest Land and Resource Management Plan (1986), as amended by the Sierra Nevada Forest Plan Record of Decision (January, 2004), which were developed in accordance with the National Forest Management Act of 1976, 16 USC 1604(i) and 36 CFR 219.10(e) and with the National Environmental Policy Act.

### **V. ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES**

This decision is not subject to appeal pursuant to Agricultural Act of 2014 Public Law No. 113-79, Section 8006. On January 17, 2014, the President signed into law the Consolidated Appropriations Act of 2014 (Pub. L. No. 113-76). Section 431 of that Act directs that the 1992 and 2012 legislation establishing the 36 CFR 215 (post-decisional appeals) and 36 CFR 218 (pre-decisional objections) processes "shall not apply to any project or activity implementing a land and resource management plan ... that is categorically excluded ....under the National Environmental Policy Act [NEPA]." On February 7, 2014, the President signed into law the Agricultural Act of 2014 (Farm Bill) (Pub. L. No. 113-79). Section 8006 of the 2014 Farm Bill repealed the Appeals Reform Act (ARA) (Pub. L. No. 102-381). The ARA's implementing regulation was 36 CFR 215. As a result of these two statutes, the Forest Service will no longer offer notice, comment and appeal opportunities pursuant to 36 CFR 215 for categorically excluded projects.

### **VI. IMPLEMENTATION DATE**


This decision may be implemented immediately after all required permits are obtained. Project implementation will most likely occur in September 2015.

### **VII. CONTACT PERSON**

For further information concerning this decision, please contact: Jeff Ulrich, Bridgeport Ranger District, Highway 395 HC62 Box 1000, Bridgeport, CA 93517, (760)932-5801.



  
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Jeff Ulrich  
District Ranger

  
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Date

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